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HOUSE BILL 2584 By
McDonald

SENATE BILL 2916
By Graves

AN ACT to amend Tennessee Code Annotated, Title 56, relative to discrimination against health care providers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, is amended by adding the following as a new chapter to be appropriately designated:

Section___. As used in this act "health insurance issuer" means an entity regulated under this title that offers health insurance coverage, which shall include any individual, franchise, blanket or group health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society contract, or such contract with a health maintenance organization or managed care organization.

Section ___. In selecting among providers of health services for membership in a provider network, or in establishing the terms and conditions of such membership, a health insurance issuer may not engage in any practice that has the effect of contractually discriminating against a provider:

(1) based on the race, national origin, sex, language, age, or disability of the provider; or

(2) based on the socio-economic status, disability, health status, or anticipated need for health services of a patient of the provider.

Except in the case of intentional discrimination, it shall not be a violation of this section for any person to take any action otherwise prohibited under this subsection, if the action is required by business necessity.

Section ___. In selecting among providers of health services for membership in a provider network, or in establishing the terms and conditions of such membership, a health insurance issuer may not engage in any practice that has the effect of contractually discriminating against a provider concerning reimbursement for any service which is within the lawful scope of practice of that provider if the service is a covered benefit under the plan.

Section ___. (a) In selecting among providers of health services for membership in a provider network, or in establishing the terms and conditions of such membership, a health insurance issuer may not discriminate against a class of providers who provide services that are covered by the plan by:

(1) prohibiting a class of providers from membership in the provider network who provide covered services that are within the providers' scope of practice; or

(2) selecting an inadequate number of providers in the community where such plan operates to meet the service needs and preferences of enrollees for a certain class of health care providers for covered services.

For purposes of this act the term "community where such plan operates" means the community service agency area, as defined by Title 37, Chapter 5, Part 3.

(b) Every year each plan shall survey its enrollees to determine enrollee preferences for the class of providers who provide services covered by the plan which are within the scope of practice of more than one class of providers in order to determine the need for adequate numbers of those classes of health care providers to be included within the network.

(c) As used in this section “class of health care providers” means all health care providers licensed and certified by the state licensing boards within each profession of the healing arts category established under Tennessee Code Annotated, Title 63.

Section ___. No health insurance issuer may:

(1) Deny any licensed pharmacy or licensed pharmacist the right to participate as a participating provider in any policy, contract or plan on the same terms and conditions as are offered to any other provider of pharmacy services under the policy, contract or plan;

(2) Prevent any person who is a party to or beneficiary of any policy, contract or plan from selecting a licensed pharmacy of such person’s choice to furnish the pharmaceutical services offered under any contract, policy or plan, provided that the pharmacy is a participating provider under the same terms and conditions of the contract, policy or plan as those offered to any other provider of pharmacy services; or

(3) Permit or mandate any difference in coverage for or impose any different conditions, including copayment fees, so long as the provider selected is a participant in the contract, policy or plan involved.

SECTION 2. This act shall take effect July 1, 1998, the public welfare requiring it. This act shall apply to contracts entered into on or after July 1, 1998.